

Assembly Bill No. 1055

CHAPTER 712

An act to amend Sections 115730 and 115735 of, and to add and repeal Article 4 (commencing with Section 115810) of Chapter 4 of Part 10 of Division 104 of, the Health and Safety Code, relating to public playgrounds.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1055, Villaraigosa. Playground equipment and facilities.

(1) Existing law requires all public agencies operating playgrounds, including a state agency, city, county, city and county, and district, to upgrade their playgrounds by replacement or improvement as necessary to satisfy specified regulations to the extent state funds are made available specifically for the purpose through state bonds or other means. Existing law also requires all other entities operating playgrounds open to the public to upgrade their playgrounds by replacement or improvement, as necessary to satisfy specified regulations, on or before January 1, 2000.

This bill would extend to January 1, 2003, the date on or before which entities, excluding public agencies, operating playgrounds open to the public are required to upgrade their playgrounds by replacement or improvement to satisfy specified regulations. It would also exempt certain foster and child care providers from these provisions.

The bill would require playgrounds installed between specified dates to be upgraded to satisfy criteria in certain federal guidelines. The bill would provide that before October 1, 2000, all public agencies and other entities operating playgrounds open to the public shall have a playground inspector conduct an inspection to aid compliance with applicable requirements, as specified.

(2) Existing law requires the State Department of Health Services, in consultation with specified other agencies and entities to adopt regulations for the design, installation, maintenance, inspection, supervision where appropriate, and training of personnel involved in the design, installation, and maintenance, of playgrounds, as described, either operated by public agencies, including state agencies, cities, counties, school districts, and other districts, or operated by any entity where the playground is open to the public.

This bill would enact the Playground Safety and Recycling Act of 1999, which would establish, until July 1, 2003, the playground safety and recycling grant program, administered by the California

Integrated Waste Management Board, to provide grants for the purpose of improving or replacing playgrounds, as defined, to local agencies, if specified conditions for eligibility are met, including specified requirements that the grant funds will be used for the improvement, installation, or replacement of equipment or facilities through the use of recycled materials.

The bill would authorize the California Integrated Waste Management Board to adopt emergency regulations, as prescribed, to implement the bill. The bill would create the Playground Safety and Recycling Account in the State Treasury. The bill would authorize moneys in the account to be expended, upon appropriation by the Legislature, for the purposes of the program and for the administrative costs incurred by the board in administering the program. The bill would be implemented with funds appropriated for deposit in the account or otherwise made available.

(3) Existing law appropriates \$2,000,000 to the Superintendent of Public Instruction, for allocation on a one-time basis, to provide matching grants to school districts for the purpose of improving or replacing schoolsite playground equipment to meet state-mandated playground safety standards.

This bill would require the Superintendent of Public Instruction to enter into a memorandum of understanding with the board for purposes of allocating that \$2,000,000, consistent with the Playground Safety and Recycling Act established by the bill.

The people of the State of California do enact as follows:

SECTION 1. Section 115730 of the Health and Safety Code is amended to read:

115730. (a) All public agencies operating playgrounds, including a state agency, city, county, city and county, and district, shall upgrade their playgrounds by replacement or improvement as necessary to satisfy the regulations adopted pursuant to Section 115725 to the extent state funds are made available specifically for that purpose through state bonds or other means. All other entities operating playgrounds open to the public shall upgrade their playgrounds by replacement or improvement, as necessary to satisfy the regulations adopted pursuant to Section 115725, on or before January 1, 2003.

(b) (1) Subdivision (a) and the regulations adopted pursuant to Section 115725 shall not apply to playgrounds installed between January 1, 1994, and December 31, 1999. Those playgrounds shall be subject to the requirements to upgrade set forth in this subdivision until 15 years after the date those playgrounds were installed, at which time those playgrounds shall be subject to subdivision (a) and the regulations adopted pursuant to Section 115725.



(2) All public agencies operating playgrounds installed between January 1, 1994, and December 31, 1999, shall upgrade those playgrounds by replacement or improvement as necessary to satisfy criteria that are at least as protective as the guidelines in the Handbook for Public Playground Safety, Publication Number 325, United States Consumer Product Safety Commission, November 1994, to the extent that state funds are made available specifically for that purpose through state bonds or other means.

(3) All other entities operating playgrounds open to the public and installed between January 1, 1994, and December 31, 1999, shall upgrade those playgrounds by replacement or improvement as necessary to satisfy criteria that are at least as protective as the guidelines in the Handbook for Public Playground Safety, Publication Number 325, United States Consumer Product Safety Commission, November 1994, on or before January 1, 2003.

(c) Before October 1, 2000, all public agencies operating playgrounds and all other entities operating playgrounds open to the public shall have a playground safety inspector, certified by the National Playground Safety Institute, conduct an initial inspection for the purpose of aiding compliance with the requirements to upgrade set forth in subdivision (a) or (b), as applicable. Any inspection report may serve as a reference when the upgrades are made, but is not intended for any other use.

(d) This section shall not affect the liability or absence of liability of playground operators.

SEC. 2. Section 115735 of the Health and Safety Code is amended to read:

115735. For purposes of this article, all of the following shall apply:

(a) An “entity operating a playground open to the public” shall include, but not be limited to, a church, subdivision, hotel, motel, resort, camp, office, hospital, shopping center, day care setting, and restaurant. An “entity operating a playground open to the public” shall not include a foster family home, certified family home, small family home, group home, or family day care home, which is licensed and regulated to meet child safety requirements enforced by the State Department of Social Services.

(b) “Playground” shall refer to an improved outdoor area designed, equipped, and set aside for children’s play that is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal landforms, vegetation, and related structures.

(c) “Supervision” shall include all general and specific supervision necessary to protect children from unreasonable risk of harm from site hazards, the acts of other children, or the use of the playground in a way that was not intended by the designer or manager of the playground. The regulations required pursuant to this article shall not expand on the periods or circumstances when supervision shall

be provided beyond the periods or circumstances already determined to be within the existing standard of care to which a playground operator is held.

SEC. 3. Article 4 (commencing with Section 115810) is added to Chapter 4 of Part 10 of Division 104 of the Health and Safety Code, to read:

Article 4. Safe Playground Facilities and Recycled Materials

115810. This article shall be known, and may be cited, as the Playground Safety and Recycling Act of 1999.

115811. The playground safety and recycling program is hereby established, to be administered by the California Integrated Waste Management Board. The purpose of the program is to prevent childhood injuries on public playgrounds, while developing a market for recycled materials suitable for use in public playgrounds.

115812. As used in this article, the following terms have the following meanings:

(a) “Board” means the California Integrated Waste Management Board established pursuant to Section 40400 of the Public Resources Code.

(b) “Playground” means an improved outdoor area designed, equipped, and set aside for children’s play that is not intended for use as an athletic playing field or athletic court, and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

115813. (a) The board, in consultation with the State Department of Education, the State Department of Health Services, the Department of Conservation, the Department of Parks and Recreation, the League of California Cities, the California State Association of Counties, the California Park and Recreation Society, and other appropriate entities, including, but not limited to, beverage container recyclers, waste haulers, special districts, school districts, county superintendents of schools, nonprofit organizations, and private companies, shall develop a program to provide grants to local agencies to upgrade, repair, refurbish, install, or replace public playground facilities and promote the use of recycled materials in those playground facilities.

(b) The board shall administer grants for purposes of this article, which shall be awarded pursuant to a request for application process.

(c) Grants shall be awarded pursuant to this article to local agencies, including, but not limited to, schools, school districts, cities, counties, cities and counties, special districts, and joint ventures between school districts and other local agencies, including, but not limited to, park districts, for the purpose of improving or replacing their public playgrounds.

(d) To be eligible for a grant pursuant to this article, a local agency shall do both of the following:

(1) Demonstrate its ability to provide a 50 percent match, either through public or private funds or in-kind contributions. The matching requirement may be reduced to a 25 percent match, either through public or private funds or in-kind contributions, upon a finding by the board that the 50 percent matching requirement would impose an extreme financial hardship on the local agency applying for the grant.

(2) Guarantee that 50 percent of the grant funds will be used for the improvement or replacement of playground equipment or facilities through the use of recycled materials.

(e) No grant made pursuant to this article shall exceed the sum of twenty-five thousand dollars (\$25,000) for any one playground.

115814. (a) The board may adopt emergency regulations to implement this article in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and the adoption of those emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Emergency regulations adopted pursuant to this section shall be exempt from the review and approval of the Office of Administrative Law.

(c) The emergency regulations shall be submitted to the Office of Administrative Law only for purposes of filing with the Secretary of State and publication in the California Code of Regulations.

115815. (a) The Playground Safety and Recycling Account is hereby created in the State Treasury. Moneys in the account may be expended, upon appropriation by the Legislature, for the purposes of this article and for the administrative costs incurred by the board in administering the program. Those administrative costs shall not exceed 5 percent of the funds made available annually for the program, or an amount otherwise specified in the annual Budget Act.

(b) The program established by this article shall be implemented by the board with funds appropriated by the Legislature for deposit in the Playground Safety and Recycling Account or with other funds made available specifically for this program.

(c) To the extent that Proposition 98 funds are deposited into the Playground Safety and Recycling Account or otherwise made available for the purposes of providing grants pursuant to this article, those funds shall be used exclusively for grants to eligible local educational agencies.

115816. This article shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. The Superintendent of Public Instruction shall enter into a memorandum of understanding with the California Integrated Waste Management Board for the purpose of allocating the two million dollars (\$2,000,000) appropriated to the Superintendent of Public Instruction by subdivision (bb) of Section 65 of Chapter 78 of the Statutes of 1999, to provide matching grants to local educational agencies for the purpose of improving or replacing schoolsite playground equipment to meet state-mandated playground safety standards, consistent with the Playground Safety and Recycling Act of 1999 established by Article 4 (commencing with Section 115810) of Chapter 4 of Part 10 of Division 104 of the Health and Safety Code, as added by Section 5 of this act.

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